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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**MARY ELLEN ZWEIG
P O Box 163
Nevada City, CA 95959**

Registered Nurse License No. 506205

RESPONDENT

Case No. 2012-669

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 27, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-669 against Mary Ellen Zweig (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about November 4, 1994, the Board of Registered Nursing (Board) issued Registered Nurse License No. 506205 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2014, unless renewed.

3. On or about April 27, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-669, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

P O Box 163

Nevada City, CA 95959.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about May 24, 2012 the Certified Mail documents were returned and marked
5 by the U.S. Postal Service, "Unclaimed."

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
18 No. 2012-669.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated April 27, 2012, signed by Aaron Hanson, and the
25 returned envelope finds Respondent is in default. The Board will take action without further
26 hearing and, based on Accusation No. 2012-669 and the documents contained in Default Decision
27 Investigatory Evidence Packet in this matter which includes:

28 //

1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-669,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;

6 Exhibit 2: License History Certification for Mary Ellen Zweig, Registered Nurse
7 License No. 506205;

8 Exhibit 3: Court and Arrest Records;

9 Exhibit 4: Affidavit of Kami Pratab;

10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2012-669.

12 The Board finds that the charges and allegations in Accusation No. 2012-669 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$1,180.00 as of November 8, 2012.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mary Ellen Zweig has subjected her following license(s) to discipline:

a. Registered Nurse License No. 506205

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a) - Unprofessional Conduct.

b. Violation of Business and Professions Code section 2761(f) - Conviction substantially related to the qualifications, functions and duties of a registered nurse.

c. Violation of Business and Professions Code section 2762(b) - Use of controlled substance or alcohol to an extent or in a manner dangerous or injurious to oneself and others.

d. Violation of Business and Professions Code section 2762(c) - Criminal conviction involving alcoholic beverages or controlled substances.

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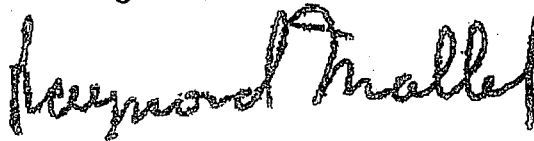
ORDER

IT IS SO ORDERED that Registered Nurse License No. 506205, heretofore issued to Respondent Mary Ellen Zweig, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2012-669

Exhibit A

Accusation No. 2012-669

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-669

13 **MARY ELLEN ZWEIG**
14 **P.O. Box 163**
Nevada City, CA 95959

A C C U S A T I O N

15 **Registered Nurse License No. 506205**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about November 4, 1994, the Board issued Registered Nurse License Number
25 506205 to Mary Ellen Zweig ("Respondent"). The registered nurse license was in full force and
26 effect at all times relevant to the charges brought herein and will expire on February 29, 2014,
27 unless renewed.

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subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

9. Respondent has subjected her license to discipline pursuant to Code section 2761, subdivision (f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions, and duties of a registered nurse:

a. On or about November 24, 2000, in the Superior Court, County of Nevada, California, in the matter entitled *People vs. Mary Ellen Zweig*, 2000, Case No. M00 1541, Respondent was convicted by the court of a violation of Vehicle Code sections 23152, subdivision (a) (driving while under the influence of alcohol), a misdemeanor.

b. On or about July 14, 2008, in the Superior Court, County of Nevada, California, in the matter entitled *People vs. Mary Ellen Zweig*, 2008, Case No. M08 0704, Respondent was convicted following her plea of nolo contendere to a violation of Vehicle Code sections 23103/23103.5 (wet and reckless), a misdemeanor. The circumstances of the crime are that on or about April 11, 2008, Respondent was arrested following a report made to the Grass Valley Police by a citizen, who reported Respondent as a possible drunk driver.

c. On or about February 3, 2011, in the Superior Court, County of Nevada, California, in the matter entitled *People vs. Mary Zweig*, 2010, Case No. M10-0636, Respondent was convicted following her plea of nolo contendere to a violation of Vehicle Code section 23152, subdivision (a) (drive while under the influence of alcohol), a misdemeanor, with two priors (July 14, 2008, and December 9, 2000 or November 24, 2000). The circumstances of the crime are that on or about April 13, 2010, Respondent was arrested for driving under the influence after

1 being followed by two detectives in an unmarked unit. Respondent's blood alcohol measured
2 .12%

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime Involving Alcohol/Controlled Substances)**

5 10. Respondent has subjected her license to discipline pursuant to Code section 2761,
6 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
7 subdivision (c), in that Respondent has been convicted of crimes involving the consumption of
8 alcohol, as more particularly set forth in paragraph 9, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

11 11. Respondent has subjected her license to discipline pursuant to Code section 2761,
12 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
13 subdivision (b), in that on or about September 23, 2000, April 11, 2008, and April 13, 2010,
14 Respondent used alcohol to an extent or in a manner dangerous or injurious to herself or others,
15 as more particularly set forth in paragraphs 9 and 10, above.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:

- 19 1. Revoking or suspending Registered Nurse License Number 506205, issued to Mary
20 Ellen Zweig;
- 21 2. Ordering Mary Ellen Zweig to pay the Board of Registered Nursing the reasonable
22 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 23 3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: April 27, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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